



**LAWYERS' COMMITTEE FOR
CIVIL RIGHTS
UNDER LAW**

1401 New York Avenue, NW
Suite 400
Washington, DC 20005-2124

Tel. 202.662.8600
Fax: 202.783.0857
www.lawyerscommittee.org

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Commission's Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

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Office of the Secretary

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Re: Comments—NBP Public Notice #20, "Moving Toward a Digital Democracy"

Dear Commission's Secretary:

The Lawyers' Committee for Civil Rights Under Law is pleased to offer public comment on the FCC's request for input on moving toward a digital democracy in the United States of America. Based on our experience as the leader of the Election Protection coalition, the largest non-partisan voter protection effort in the country, we know firsthand the pressing need to upgrade and modernize the process of voter registration nationwide. No other reform will have a larger impact on the ability of eligible Americans to participate than bringing the voter registration system into the 21st century. Although many effective improvements have been made by a few individual states, more far-ranging reforms are needed. We recognize the digital technologies we enjoy in this country offer tremendous opportunities to expand access to voter registration, support election-related activities and foster the advancement of our democratic process if properly implemented.

The Election Protection coalition is dedicated to providing Americans from coast to coast with comprehensive voter information and advice on how they can make sure their vote is counted through our non-partisan 866-OUR-VOTE hotline. Each election cycle, we collect and categorize the stories of thousands of voters. Additionally, we work closely with election administrators in dozens of states to identify, preemptively, potential Election Day issues and solve problems when they arise. Because we provide this service to voters, we have unique knowledge of the many problems Americans face and the ways in which our current system has denied millions of citizens their most basic democratic right.

We are all too aware that the majority of these registration problems are a direct result of our outdated voter registration system. Still, we have witnessed states make marked improvements in registration and turnout while addressing concerns about fraud, all by bringing their systems into the 21st century.



Our registration system is outdated in several respects including its overreliance on paper forms. These handwritten registration forms may be illegible, and can result in data entry errors and redundancies. An influx of voter registration forms strains election administrators during the critical period leading up to Election Day, causing other duties to fall by the wayside. Additionally, these paper forms are expensive to print, expensive to mail and expensive to constantly update through manual data entry.

By the very nature of this system, certain voters have a more difficult time registering to vote – the very first step in the democratic process. Americans who move, those who change names because of a marriage or divorce, students and members of our military who move frequently or serve overseas all face significant barriers to voter registration.

Below we lay out the case for expanding the use of the internet and other technologies not only to provide voters with access to voter registration online, but for the purposes of data sharing between agencies to allow for a system in which voter registration is more automated, portable and allows for election day corrections.

Reflecting our experience regarding number and degree of the problems caused by our outdated voter registration system, we have chosen to focus on those questions relating to voter registration.

1. Voter Registration

FCC Question 1a. Are there government jurisdictions that have implemented online voter registration? Can the impact of online voter registration be quantified compared to traditional methods, including registration numbers, voter registration application errors, and rejected applications? Are there qualitative impacts of allowing citizens to register to vote online, including positive or negative effects?

LC Response 1a. In most states, the paper-based system strains the election administration system by diverting resources and energy from other critical tasks. Some states, however, have shown that allowing voters to register online and harnessing other technologies to make the registration system more automated eliminates tremendous inefficiencies in the election administration system, eliminates errors in the registration systems, and provides a critical tool to increase citizens' reliable participation in our elections.

Countries worldwide have instituted voter reforms that include online voter registration, and in the U.S. three states—Arizona, Kansas and Washington—implemented voter registration that can be completed entirely online. A growing number of other states—California, Colorado,



Indiana, Utah and Oregon—have passed legislation and will begin to register voters online in the coming election cycles.

In Delaware, government lists have alternatively been used to automatically register eligible voters who apply for new driver's licenses or update their expired ones. As these states have made progress towards fully modernized systems, online voter registration has been shown to have a quantifiable impact on elections, both in terms of increased voter turnout and in terms of the fiscal savings that result from increased system efficiency and a decreased burden on election officials.

The 2008 election saw record turnout among eligible voters, and in states like Arizona where online registration is allowed for citizens with driver's licenses, voters registered over the web in unprecedented numbers. According to the Arizona Secretary of State's office, 799,400 voters registered online in the year leading up to the 2008 election, and these voters accounted for 26.8% of the electorate that fall. Kansas and Washington share similar stories. The tangible benefits of online voter registration are becoming well known as they overcome many setbacks caused by our paper-based system.

We know that our current system is remarkably wasteful. It relies on paper forms that force election officials to engage in elaborate quality control programs, which, with the resource-consuming task of processing so many paper forms, burns through taxpayer dollars at an astonishing rate. Allowing voters to register online eliminates much of the errors endemic to this process. Currently, each written application for registration must be deciphered by someone in the election official's office. Too often, sloppy handwriting leads to entering the wrong information. This is eliminated when technology is harnessed for registration and voters are allowed to register through the internet or the system is more automated by pulling information from other government sources.

The cost savings are real. In Oregon, for example, our paper-based system costs about \$4 per voter, totaling \$9 million statewide for the 2008 election. In Maricopa County, Arizona, where they register voters online, local election officials saw the cost of registrations decrease, from \$.83 per voter to \$.03 per voter. In Delaware, enhanced efficiencies because of a more automated registration system saved the state over \$200,000 annually.

Finally, with millions of eligible voters blocked from casting a ballot each election cycle, the implementation of online registration would less the



impact of a number of obsolete processes and hurdles to voting that all too often deny citizens their most basic democratic right.

In providing online voter registration, it is important for federal and state government officials to address the digital divide. Minority and low-income voters have the lowest voter registration rates and also the least amount of access to the internet. The disparity in voter registration rates for low income and minority voters has the potential to become greater if the digital divide is not properly addressed.

FCC Question 1b. Are there privacy concerns that jurisdictions must address if online voter registration is adopted?

LC Response 1b. Every day, local, state and federal governments successfully protect information ranging from social security numbers, to taxes and background records. Vital security measures are taken to protect each of the many lists our government keeps, and registration systems will continue to be built with similar safety features that will prevent identity theft, fraud, and other deceptive practices.

To keep private information safe over the internet, common precautions can stave off interested third parties and protect against online predators and other malicious actors. Registration modernization will require the same sorts of precautions taken by successful online retailers. These precautions include physically secure servers, firewalls to protect internal networks from infiltration via the internet, audit trails to monitor who has accessed voter registration data, encryption of sensitive data such as social security numbers and birth dates, and even the use of virtual private networks (VPNs) to connect securely between two registration centers, such as a central state database and a county satellite office.

FCC Question 1c. Are there fraud concerns that government jurisdictions must address if online voter registration is adopted? What steps can jurisdictions undertake to mitigate and eliminate potential fraud in facilitating online voter registration?

LC Response 1c. One step currently being taken to deter fraud in online registration is to compare incoming registration requests with existing administrative records. Arizona, for example, presently restricts online registration to those applicants who provide a current state driver's license number or nonoperating identification card number. Those online applications are then verified against records maintained by the state Department of Motor Vehicles. While the rules and procedures for such administrative record matching must of course be developed and executed with care to ensure



that the state's interest in deterring fraud is not offset by erroneous matching results, this procedure is designed to tie the information provided by the online applicant to a unique administrative record for an existing person. While we do not necessarily endorse Arizona's decision to restrict online registration to holders of DMV identification, these procedures do address concerns about the potential for multiple registration applications and/or applications under fictitious names.

In addition, by providing a secure and accountable way for existing voters to update their registration information online, over the phone and at the polls, the system would reduce the number of outdated registrations on the rolls. Such outdated registrations can make it more difficult to administer elections and have been cited by some as creating the potential for fraudulent voting.

As noted above, we believe that online voter registration need not be restricted to persons holding DMV identification. We support and encourage alternative means of providing secure online registration to as broad a range of citizens as possible.

FCC Question 1d. Would allowing citizens to register to vote online make it easier for those who have to travel long distances (such as people in rural and Tribal areas) or people who have difficulty traveling (such as some elderly or disabled Americans) to register to vote and therefore to vote?

LC Response 1d. Without doubt, mobility issues are a hindrance to voter registration in the United States. Making the trip to government offices to register are hurdles to voting for many citizens located in rural communities and for those who have difficulty traveling. Having the option to register online with little hassle would make voting possible for many citizens a paper-based system leaves disenfranchised provided that the digital divide issues mentioned above are also addressed.

When it comes to online resources, it's not just about registration: other services created in tandem with online registration systems already in place have simplified processes like checking registration status and updating addresses. For residents of Arizona, addresses have been linked across computer systems so that updating a driver's license automatically updates the same person's voter registration. These and other steps ensure clean voter rolls, making it that much easier to facilitate clean elections.



FCC Question 1e. How would online voter registration affect overseas military personnel, overseas diplomatic personnel, or other Americans living overseas?

LC Response 1e. The voter turnout among Americans stationed overseas is disheartening. We have watched citizens struggle as varying voter registration systems between states cause logistical problems that affect military personnel and overseas voters alike. These voters are forced to overcome excessive hurdles to participating in elections at home that are not faced by other Americans. In fact, the registration rate for military voters is almost 20 percent lower than that for all Americans.

Wherever they may be stationed, American citizens have the right to vote. Internet registration would allow military and overseas voters to register without the burden of requesting the correct paper materials before the correct deadlines, all of which vary from state to state. Americans stationed abroad know all too well that the current system is outdated, woefully inefficient, and impossible to navigate over snail mail. Registration modernization can largely fix a system that currently leaves these voters out to dry, and the implementation of internet registration would be a significant step in the right direction.

We applaud the FCC for considering how the digital age can be used to improve upon the foundations of our democratic processes. We strongly recommend starting with ensuring the right of every eligible voter to register and be counted.

Respectfully submitted,

Jon M. Greenbaum
Legal Director and Director of the Voting Rights Project
Executive Director